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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,225	02/18/2004	SHIH-CHANG SHEI	11115-US-PA	2224
31561	7590	05/31/2005	EXAMINER	
JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE 7 FLOOR-1, NO. 100 ROOSEVELT ROAD, SECTION 2 TAIPEI, 100 TAIWAN			HU, SHOUXIANG	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,225

Applicant(s)

SHEI ET AL.

Examiner

Shouxiang Hu

Art Unit

2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 11, 14 and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Wegleiter (US 6,531,405).

Wegleiter discloses an LED device (Fig. 1, also see col. 2, lines 12-47), comprising: a substrate (1); an active layer (18; GaAsP) on the substrate, wherein the active layer comprises an N-doped layer (3), a P-doped layer (4), wherein a PN junction is naturally formed therebetween, and such PN junction portion can be naturally regarded as a light emitting layer. And, the active layer has a rough sidewall capable of preventing total reflection of a light incident to the sidewall; and two electrodes (6 and 5) on the first doped layer and the second doped layer, respectively. And, the active layer also comprises a rough top surface.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okazaki (US 2003/0062530) in view of Bader (US 2004/0026709) and/or Noguchi (US 5,040,044).

Okazaki discloses an LED device (Figs. 1-3 and 8-9; also see Paragraphs 0039-0040 and 0121-0124), comprising: a substrate (1; sapphire); an active layer (2-4; GaN-based) including: a first doped layer (2; n-type); a light emitting layer (3; QW); a second doped layer (4; p-type), wherein the active layer has a rough top surface comprising semicircular pillar-shaped bumps and naturally capable of preventing total reflection of a light incident to it; and two electrodes (5 and 6) on the first doped layer and the second doped layer, respectively.

Although Okazaki does not expressly disclose that the rough surface can also be extended to the sidewall of the active layer, one of ordinary skill in the art would readily recognized that such extension is desirable for further improving the LED's external quantum efficiency, as readily evidenced in the prior art such as Bader (see Fig. 5) and/or Noguchi (see Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make LED of Okazaki with the roughened surfaces

being extended to the sidewall, per the teachings of Bader and/or Noguchi, so that an LED with further improved external quantum efficiency would be obtained.

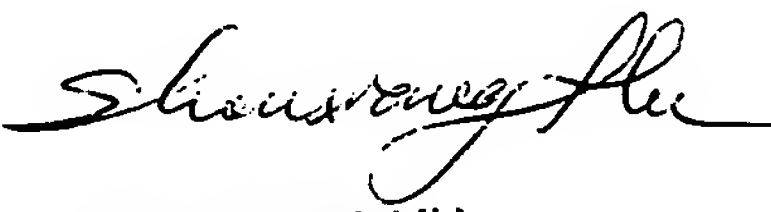
Regarding claim 10, it is noted that it is art known that the polarity of the LED can be either a PN type or an NP type.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shouxiang Hu whose telephone number is 571-272-1654. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie C. Lee can be reached on 571-272-1732. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH
May 24, 2005 
SHOUXIANG HU
PRIMARY EXAMINER